

2. If claimant did suffer accidental injury arising out of and in the course of her employment with respondent, what is the nature and extent of that injury and disability?
3. Is claimant entitled to temporary total disability compensation benefits from September 17, 2002, to October 2, 2002?
4. Is respondent entitled to a set-off, pursuant to K.S.A. 44-501(h), in the amount of \$11,649.69?
5. Is claimant entitled to unauthorized and future medical benefits for the injuries alleged?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in significant detail. The Board adopts those findings and conclusions as its own and finds it unnecessary to repeat those findings and conclusions herein.

Claimant alleged accidental injury on September 17, 2002, when, while she was either walking up the stairs¹ or down the stairs², she developed a sudden pain in her right leg. Claimant grabbed ahold of a hand rail in order to keep from falling. Claimant acknowledged she did not fall, and there is no indication in this record that claimant's left leg or hip struck anything traumatically. Approximately six weeks later, she suffered a hip fracture while at home. Claimant contends her hip fracture was a direct and natural consequence of the September 17, 2002 incident at work.

The ALJ determined, after considering claimant's testimony and the testimony of several health care providers, that claimant failed to prove that she suffered accidental injury arising out of and in the course of her employment. Also, the ALJ found claimant failed to prove that her ongoing conditions and need for treatment for the fractured left hip were caused by any incidents occurring at her job with respondent. The Board concurs. The Board finds especially convincing the testimony of board certified radiologist William B. Garlow, M.D. Dr. Garlow, in reviewing the x-rays of September 17, 2002, found no indication of a stress fracture in claimant's hip. He further found the testimony by

¹ P.H. Trans. at 7, 12-13 and 47.

² R.H. Trans. at 13, 25, 26 and 27-28.

board certified orthopedic surgeon Todd D. Herrenbruck, M.D., to be suspect in that Dr. Herrenbruck, on reviewing the x-rays, was actually circling areas of the hip which were different on the September 17 versus the October 26, 2002 x-rays, possibly indicating different fracture sites.

The Board, in reviewing the medical opinions of Dr. Garlow and Dr. Herrenbruck, as well as those of Steven R. Henson, M.D., emergency medicine specialist, and Philip R. Mills, M.D., board certified in physical medicine and rehabilitation, determines that claimant has failed to prove that she suffered accidental injury arising out of and in the course of her employment on September 17, 2002. Moreover, claimant failed to meet her burden of proof that any condition associated with the fracture in claimant's left hip was connected to any work-related injury suffered while employed with respondent. In short, there is no causal relationship between claimant's hip fracture and her September 17, 2002 incident at work. The Board, therefore, finds the Award of the ALJ denying claimant's benefits in this matter should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated December 7, 2005, should be, and is hereby, affirmed in all regards.

IT IS SO ORDERED.

Dated this ____ day of April, 2006.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Norman R. Kelly, Attorney for Claimant
 Dustin J. Denning, Attorney for Respondent and its Insurance Carrier
 Bruce E. Moore, Administrative Law Judge
 Paula S. Greathouse, Workers Compensation Director